

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

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AUTO-OWNERS INSURANCE)
COMPANY, a mutual insurance)
company incorporated in the)
State of Michigan,)
Plaintiff,)
v.)
SUNSHINE CAMPING CENTER,)
INC., a corporation; UNION)
PLANTERS BANK, N.A., and/or)
UNION PLANTERS BANK, N.A. n/k/a)
REGIONS BANK, N.A.,)
Defendants.)

CIVIL ACTION NO.: 1:05-cv-1024-MHT

J. R. HACKETT, CLERK
MIDDLE DISTRICT COURT
MIDDLE DISTRICT ALA

MOTION FOR SUMMARY JUDGMENT OF PLAINTIFF,
AUTO-OWNERS INSURANCE COMPANY

COMES NOW Plaintiff Auto-Owners Insurance Company (Auto-Owners), and moves this Honorable Court to enter summary judgment in favor of Auto-Owners pursuant to Rule 56(c) of the *Federal Rules of Civil Procedure* and against Defendants Sunshine Camping Center, Inc. (Sunshine Camping Center) and Union Planters Bank, N.A., and/or Union Planters Bank, N.A. n/k/a Regions Bank, N.A. (Union Planters/Regions) for the relief demanded in Auto-Owners complaint for declaratory relief and judgment, as amended. For grounds of this motion, Auto-Owners avers that there is no genuine issue as to any material fact and that Auto-Owners is entitled to the entry of a judgment in its favor as a matter of law. Auto-Owners further avers that it does not owe insurance coverage for defense or indemnity to Defendant Sunshine Camping Center, Inc., and that it does not

have a duty to pay any damages, judgment or settlement for any of the claims, damages or events alleged in the underlying action styled Union Planters Bank, N.A. v. Sunshine Camping Center, Inc., et al., Civil Action No.: CV-04-251-M,(hereinafter sometimes referred to as "CV-04-251-M") pending in the Circuit Court for Dale County, Alabama or regarding the cross-claim and third-party claim filed by Union Planters/Regions in the underlying action styled Robert M. McAllister v. Sunshine Camping Center, Inc., et al., Civil Action No.: CV-04-296-M (hereinafter sometimes referred to as "CV-04-296-M"). This motion is based upon the following:

- a. All pleadings and all exhibits thereto filed in this action.
- b. The complaint filed in the underlying action styled Union Planters Bank, N.A. v. Sunshine Camping Center, Inc., et al., Civil Action No.: CV-04-251-M, pending in the Circuit Court for Dale County, Alabama. A true and correct copy of the complaint filed in CV-04-251-M is attached to Auto-Owners' evidentiary submission in support of this motion as Exhibit "2".
- c. The cross-claim and third-party claim filed by Union Planters Bank, N.A., n/k/a Regions Bank, N.A., in the action styled Robert M. McAllister v. Sunshine Camping Center, Inc., et al., Civil Action No.: CV-04-296-M. A true and correct copy of the cross-claim and third-party claim filed in CV-04-296-M is attached to Auto-Owners' evidentiary submission in support of this motion as Exhibit "6".
- d. The evidentiary submission and memorandum brief of Auto-Owners Insurance Company filed contemporaneously herewith, and which is adopted by reference in its entirety as if fully set forth herein.
- e. The certified policies of insurance for the policy periods 20 February 2003 to

20 February 2004 and 20 February 2004 to 20 February 2005 and the authenticating affidavits of William E. Barrett, Jr., attached to Auto-Owners' evidentiary submission in support of its motion for summary judgment as Exhibits "1A" and "1B", and filed contemporaneously herewith.

f. The narrative summary of undisputed facts and brief of Auto-Owners in support of this motion which has been filed contemporaneously herewith, and which is adopted by reference in its entirety as if fully set forth herein.

WHEREFORE, Plaintiff, Auto-Owners Insurance Company, moves this Honorable Court to enter pursuant to Rule 56 of the *Federal Rules of Civil Procedure*, a summary judgment in Auto-Owners' favor and against all Defendants for the relief demanded in Auto-Owners' Complaint For Declaratory Relief and Judgment, as amended, and against Defendants Sunshine Camping Center, Inc. and Union Planters Bank, N.A., and/or Union Planters Bank, N.A. n/k/a Regions Bank, N.A. (Union Planters/Regions). Alternatively, and in the event the Court determines that this action may not be disposed of in its entirety by entry of summary judgment in Auto-Owners' favor, Auto-Owners Insurance Company moves this Honorable Court to enter summary judgment in Auto-Owners' favor as to those issues, claims, damages and/or actions upon which the court determines summary judgment in favor of Auto-Owners is proper.

Dated this the 20th day of June, 2006.



ROGER S. MORROW, MOR032



JOEL H. PEARSON, PEA019
Attorneys for Plaintiff, Auto-owners
Insurance Company

OF COUNSEL:

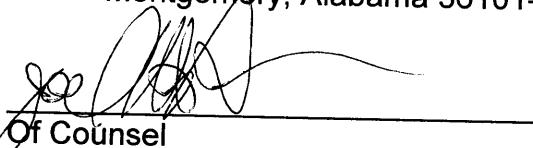
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon the following by placing a copy of same in the United States mail, first class postage prepaid on this the 20th day of June, 2006.

Hon. Robert H. Brogden
P.O. Drawer 1007
Ozark, Alabama 36361-1007

Honorable John G. Smith
Balch & Bingham
P.O. Box 78
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Of Counsel